

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 24, 2004

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
NEWSOUTH COMMUNICATIONS CORP.**

**DOCKET NO.
03-00272**

**AMENDED ORDER APPROVING
FIFTH AMENDMENT TO INTERCONNECTION AGREEMENT**

This matter came before Chairman Deborah Taylor Tate, Director Pat Miller and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 2, 2003, to consider, pursuant to 47 U.S.C. § 252, the *Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and NewSouth Communications Corp Pursuant to the Telecommunications Act of 1996* (the "Petition"). On July 3, 2003, the Authority issued an *Order Approving Second Amendment to Interconnection Agreement*, which did not reflect the total number of amendments to the original interconnection agreement. Accordingly, this Amended Order replaces the July 3, 2003 Order and reflects the correct procedural history of this docket by stating that the amendment, which is the subject of this docket, is the fifth amendment and not the second amendment to the interconnection agreement.

The original interconnection agreement and first set of amendments between these parties were filed on August 1, 2001, and were assigned Docket No. 01-00680. They were approved at a regularly scheduled Authority Conference on October 9, 2001. The second amendment was filed on December 11, 2001, under Docket No. 01-01100 and was approved at a regularly scheduled Authority Conference on February 5, 2002. The third amendment was filed on September 16, 2002, under Docket No. 02-01014 and was approved at a regularly scheduled Authority Conference on October 21, 2002. The fourth set of amendments was filed on February 4, 2003, under Docket No. 03-00085 and was approved at a regularly scheduled Authority Conference on March 17, 2003.

The fifth amendment, which is the subject of this docket, was filed on April 10, 2003, and considered at the June 2, 2003 Authority Conference by the voting panel assigned to this docket.

Based upon a review of the fifth amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the panel voted unanimously to grant the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the

agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.


5) No person or entity has sought to intervene in this docket.

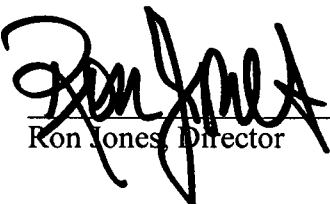
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and NewSouth Communications Corp. is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Chairman


Pat Miller, Director


Ron Jones, Director

¹ See 47 U.S.C. § 252(e)(2)(B)